

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

OMAR MARISCAL,

Plaintiff,

v.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE, et al.,

Defendants.

No. 1:20-cv-00089-NONE-EPG (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DISMISSING
ACTION AND DIRECTING THE CLERK
OF COURT TO ASSIGN DISTRICT
JUDGE AND CLOSE THIS CASE

(Doc. Nos. 13 & 15)

Omar Mariscal (“plaintiff”) is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On July 21, 2020, the assigned magistrate judge entered findings and recommendations, recommending that plaintiff’s claim challenging his conviction and sentence be dismissed as barred by the decision in *Heck v. Humphrey*, 512 U.S. 477, 486–87 (1994) and that his other claims be dismissed either because those claims are newly asserted in plaintiff’s amended complaint or were unrelated to the claim challenging his conviction. (Doc. No. 15.)

Plaintiff was provided an opportunity to file objections to the findings and recommendations. Plaintiff filed objections on August 10, 2020. (Doc. No. 16.)

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Rule 304, this court has conducted a *de novo* review of this case. Having carefully reviewed the entire file,

1 the court finds the findings and recommendations to be supported by the record and proper
2 analysis. Plaintiffs' objections do not call into question the reasoning presented in the findings
3 and recommendations.

4 Accordingly, THE COURT HEREBY ORDERS that:

- 5 1. The findings and recommendations issued on July 21, 2020, (Doc. No. 15), are
6 adopted;
- 7 2. Plaintiff's claim challenging his conviction and sentence is dismissed without
8 prejudice;¹
- 9 3. All other claims are also dismissed without prejudice; and
- 10 4. The Clerk of Court is directed to assign a district judge to this case for the
11 purpose of closing the case and then to close this case.

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13 IT IS SO ORDERED.

14 Dated: August 18, 2020


UNITED STATES DISTRICT JUDGE

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27 ¹ The dismissal of the *Heck*-barred claim is without prejudice to its refiling in the event
28 plaintiff's conviction or sentence at issue were to be reversed, expunged, or otherwise
invalidated.